

IPW



Attorney Docket No.: **74782-022**
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Tohru SAITO, et al.

Application No.: 10/588,605

Filed: August 7, 2006

: Customer No. 53080

: Confirmation No.: 8353

: Group Art Unit: 2818

: Examiner: ANDY HUYNH

For: **SEMICONDUCTOR NANOWIRE AND SEMICONDUCTOR
DEVICE INCLUDING THE NANOWIRE**

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed November 26, 2008, having a shortened statutory period for response set to expire December 26, 2008, wherein the Examiner required restriction between the following distinct Species:

- Species I - First Embodiment – Figure 1-8;
- Species II - Second Embodiment – Figures 9-10;
- Species III - Third Embodiment – Figure 11; and
- Species IV - Fourth Embodiment – Figures 12-13.

Applicants elect Species I, with claims 1-10 and 14-25 readable thereon, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional

Application for the non-elected claims which the Examiner has indicated are patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 12/23/08

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